IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11251 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

S.T. DASADIA

Versus

MUNICIPAL CORPORATION FOR THE CITY OF SURAT

Appearance:

1. Special Civil Application No. 11251 of 2001

MR CL SONI for Petitioner No. 1

MR S TRIPATHY for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 04/02/2002

ORAL JUDGEMENT

Rule. Service of rule is waived by learned advocate Shri S. Tripathi for the respondent. At the request of the learned advocates, the petition is taken

up for hearing today.

2. The petitioner has challenged the order dated 27.9.2001 passed by the respondent Corporation, which is at Annexure K to the petition.

3. By the said order, the Commissioner has imposed the punishment of stoppage of one increment with permanent effect upon the petitioner. In the said order, it is also stated that the period of suspension shall be treated a period on leave and if there is no leave to the credit of the petitioner, the said period of suspension shall be treated as leave without pay.

4. At the time of hearing of this petition, the consensus is arrived at between the parties. Learned advocate Shri Tripathi for the respondent Corporation states that if the petitioner agrees for repayment of subsistence allowance by him on treating period of suspension as leave without pay and gives up the challenge to the order of punishment of stoppage of one increment, the Corporation will release the benefits of leave encashment, gratuity and other retirement benefits available to him. Learned advocate Shri Soni for the petitioner agrees for repayment of subsistence allowance by way of deduction from the leave encashment benefits available to the petitioner on his retirement, and also states that the petitioner gives up his challenge to the order of stoppage of one increment. He, however, requests that the Corporation may be directed to release all retiral benefits with leave encashment benefits forthwith as the petitioner, though retired on 30.11.2000, has not been paid the gratuity and other retiral benefits.

5. Having considered the statement made on behalf of both the parties and also the consensus arrived at between the parties, it is directed that the respondent corporation shall pay to the petitioner the amount of leave encashment benefits after deducting the amount of subsistence allowance drawn by the petitioner for the period of his suspension and also release the gratuity and other pensionary benefits of the petitioner within a period of 30 days from today. No further order is required to be passed and the petition is disposed of accordingly.

Rule is made absolute to the above extent. Direct service is permitted.

(A.R. Dave, J.)

(hn)